

MAINE STATE LEGISLATURE

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E I G H T Y - N I N T H L E G I S L A T U R E

Legislative Document

No. 801

S. P. 367

In Senate, February 14, 1939.

Referred to Committee on Judiciary and sent down for concurrence.
500 copies ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Burns of Aroostook.

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-NINE

**AN ACT Relating to Incurable Insanity as a Cause for Which a Divorce
May be Granted.**

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 73, § 2, amended. Section 2 of chapter 73 of the revised statutes is hereby amended to read as follows:

'Sec. 2. Causes for which divorce may be granted. A divorce from the bonds of matrimony may be decreed in the county where either party resides at the commencement of proceedings, for causes of adultery, impotence, extreme cruelty, utter desertion continued for 3 consecutive years next prior to the filing of the libel, gross and confirmed habits of intoxication from the use of intoxicating liquors, opium or other drugs, cruel and abusive treatment, insanity when in consequence thereof the libelee has been legally committed to and confined in a state hospital or recognized institution or hospital for insane persons of this or any other state or territory of the United States for a period of 5 consecutive years next prior to the filing of the libel, and provided further that the court finds beyond a reasonable doubt that the insanity of the libelee is incurable, and provided further that the libelant is a resident of this state and has resided here in good faith for 2 years prior to the commencement of the proceedings, or

on the libel of the wife, where the husband being of sufficient ability, or being able to labor and provide for her, grossly, or wantonly and cruelly refuses or neglects to provide suitable maintenance for her; provided that the parties were married in this state or co-habited here after marriage, or if the libelant resided here when the cause of divorce accrued, or had resided here in good faith for one year prior to the commencement of proceedings or if the libelee is a resident of this state, **excepting in cases of insanity as hereinbefore provided.** But when both parties have been guilty of adultery, or there is collusion between them to procure a divorce, it shall not be granted. Either party may be a witness. The superior court has jurisdiction of libels for divorce in all counties, **but a divorce granted for cause of insanity as hereinbefore provided shall not affect the liability of the libelant for the support of the libelee, unless, upon proof that the libelee is possessed of property sufficient for such libelee's maintenance the court shall otherwise decree; nor shall the libelant be entitled to any portion of the libelee's property; and the court in its discretion may order the libelant to provide for or contribute to the support of the libelee and to furnish security therefor; and may enter such decree for the care, custody and support of the minor children as the court deems proper and may alter its decree from time to time as circumstances require.**

Where insanity is alleged as a cause for divorce, the libelant shall file in the clerk's office a libel signed by him, and service shall be made by an attested copy of the libel and served on the libelee and on the guardian if any of the libelee, and if such guardian does not appear in court, or if the libelee has no guardian, the court shall appoint a guardian ad litem for such libelee.'